IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4969 OF 2007

Mrs. Salunkhe Indira Sharadchandra ..Petitioner

Vs.

The President, Shri Swami Vivekanand Shikshan Sanstha, Tarabai Park, Kolhapur and ors. ..Respondents

Mr. S.P. Kadam for petitioner.

Mr. G.S. Godbole for respondent nos.1 and 2.

Ms. S.S. Bhendye, AGP for respondent nos.3 & 4.

CORAM: B.H. MARLAPALLE, J.

Date : December 06, 2007.

P.C.:

1. Heard Mr. Kadam the learned counsel for the petitioner and Mr. Godbole the learned counsel for the respondent nos.1 and 2. The learned AGP appears for respondent nos.3 and 4.

2. The petitioner claims that she was promoted to the post of Head Mistress on 13/7/2001 and the said

appointment was approved by the Education Officer. All of a sudden on 1/6/2007 she came to be transferred as an Assistant Teacher by the respondent nos.1 and 2 and as per her this amounted to reduction in rank and, therefore, she has filed Appeal No.41 of 2007 before the School Tribunal under Section 9 of the M.E.P.S. Act, 1977 on 18/6/2007 along with an application for interim stay on the transfer order. The petitioner had pointed out before the School Tribunal that she was directed to resume duty as an Assistant Teacher from 1/7/2007 and, therefore, the stay petition was required to be heard before that date. However, the School Tribunal did not fix the matter prior to 1/7/2007 and the stay petition was fixed for hearing on 13/7/2007. In these circumstances, the instant petition came to be filed and on 29/6/2007 while issuing notices, this court directed status quo to be maintained. Consequently, the petitioner continues at the same school and has not resumed at the transferred school as an Assistant Teacher.

3. Mr. Godbole the learned counsel for the

management pointed out that the approval granted to the petitioner's appointment as Head Mistress was very specific and had clearly stated that in case there were any complaints by senior teachers, the approval would not be valid. As per Mr. Godbole there are four senior teachers to the petitioner who made representation and, therefore, the management had no alternative but to transfer the petitioner as an Assistant Teacher so as that one of the senior teachers can occupy the post of Head Master. These are the issue which the School Tribunal will have to be gone into after the respondent-managment as well as the Education Officer filed their reply. It would be in the interest of both the parties that the pending appeal, rather than the stay petition, is heard and decided within a specific period and in any case before the end of the present academic year. At the same time, it would be necessary for the Education Officer to appear before the School Tribunal, file his reply regarding the seniority of the teachers and place the concerned record before the School Tribunal,

if required.

4. Hence, the petition is disposed in terms of the following directions:-

(a) The Education Officer (Secondary), Zilla Parishad, Kolhapur to appear before the School Tribunal and file his reply before 30/12/2007.

(b) Parties to appear before the School Tribunal on 10/12/2007.

(c) School Tribunal to hear and decide the pending appeal i.e. Appeal No. 41 of 2007 as expeditiously as possible and in any case before 30/4/2008.

(d) The status quo granted by this court shall be continued till the appeal is decided by the School Tribunal.

(e) The appeal to be decided on its own merits and without being influenced by any observations made in this order or by the

status quo order passed by this court.

. Writ to go to the School Tribunal, Kolhapur forthwith.

(B.H. Marlapalle,J.)